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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,060	03/14/2001	Noriki Kajizaki	FUJA 18.463	2927
26304	7590	09/13/2006	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP			NGUYEN, STEVEN H D	
575 MADISON AVENUE			ART UNIT	
NEW YORK, NY 10022-2585			PAPER NUMBER	

2616

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/808,060

Applicant(s)

KAJIZAKI ET AL.

Examiner

Steven HD Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 6/29/06 has been entered.

### ***Response to Amendment***

2. This action is in response to the amendment filed on 6/29/06. Claims 3 and 9 have been canceled and claims 1-2, 4-8 and 10-12 are pending in the application.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-2, 4-8 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gopalakrishna (USP 6614808) in view of Pearce (USP 6556574).

Regarding claims 1, 4, 7 and 10, Gopalakrishna discloses (Figs 1-10 and col. 1, line 10 to col. 9, line 27) a network relay apparatus comprising a routing information gathering unit for determining the maximum transmission unit of a transmission path along a route over which packets are to be transmitted (col. 5, lines 48-59); and a combining unit for assembling a combined packet by combining packets up to a length that does not exceed the maximum transmission unit of said transmission path (Col. 5, lines 5-28 and Fig 9, col. 8, lines 35-56, col. 9, lines 22-27). However, Gopalakrishna fails to disclose a routing processing unit for selecting a path having the largest maximum transmission unit as a path for said combined packet from among a plurality of transmission paths to the same destination by excluding the path along the shortest route. In the same field of endeavor, Pearce discloses a method and system for a routing processing unit for selecting a path having the largest maximum transmission unit as a path for said combined packet from among a plurality of transmission paths to the same destination by excluding the path along the shortest route (col. 23, lines 1-13 discloses a router select a route with largest packet size).

Since, a method and system for selecting a route between the nodes that has a largest packet size is well known and expected in the art and Gopalakrishna suggests that the combined packets is transmitted on a path with maximum transmitting unit. Therefore, it would have been

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obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for selecting a route from the explorer response packet with a largest packet size for transmitting the packets as disclosed by Pearce into the teaching of Gopalakrishna. improve the network bandwidth and communication latency.

Regarding claims 2 and 8, Gopalakrishna discloses (Figs 1-10 and col. 1, line 10 to col. 9, line 27) the combined packet carries as a destination address the address of an endpoint of the route over which said packets are transmitted in combined form, said apparatus further comprising a disassembling unit for disassembling a received combined packet into individual packets if the destination address of said received combined packet matches the address of said apparatus (col. 2, line 62 to col. 3, line 3).

Regarding claims 5 and 11, Gopalakrishna inherently discloses (Figs 1-10 and col. 1, line 10 to col. 9, line 27) a combine allow/disallow determining unit for determining, based on a packet attribute, whether or not said combining unit should be made to combine packets (if the size of two session packets or the size of the session packet is equal to or greater than the maximum transport unit, the system will not generate a combined packet).

Regarding claims 6 and 12, Gopalakrishna discloses (Figs 1-10 and col. 1, line 10 to col. 9, line 27) a reassembling unit for disassembling a received combined packet into individual packets and reassembling the same into a combined packet of a length not exceeding the maximum transmission unit of the currently selected path if the length of said received combined packet exceeds said maximum transmission unit (Col. 3, lines 4-29, the aggregated packet is disassembling and reassembling into another aggregated packet for transmitting to downstream node).

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5. Claims 1-2, 4-8 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable Ketcham (USP 6721334) in view of Aho (USP 5408618).

Ketcham discloses (Figs 1-7 and col. 1, line 10 to col. 11, lines 20) a method and system for generating a combined packet, having a size less than the maximum size packet of the packet network, containing a plurality of smaller packets (Col. 2, lines 53-67); the combined packet carries as a destination address the address of an endpoint of the route over which said packets are transmitted in combined form, said apparatus further comprising a disassembling unit for disassembling a received combined packet into individual packets if the destination address of said received combined packet matches the address of said apparatus (Col. 8, lines 15-23), a combine allow/disallow determining unit for determining, based on a packet attribute, whether or not said combining unit should be made to combine packets (Col. 7, lines 42-52) and a reassembling unit for disassembling a received combined packet into individual packets and reassembling the same into a combined packet of a length not exceeding the maximum transmission unit of the currently selected path if the length of said received combined packet exceeds said maximum transmission unit (Col. 8, lines 27 to col. 9, lines 4). However, Ketcham fails to disclose a method and system for a routing processing unit for selecting a path having the largest maximum transmission unit as a path for said combined packet from among a plurality of transmission paths to the same destination by excluding the path along the shortest route. In the same field of endeavor, Aho discloses a method and system for a routing processing unit for selecting a path having the largest maximum transmission unit as a path for said combined packet from among a plurality of transmission paths to the same destination by excluding the

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path along the shortest route (col. 12, lines 24 to col. 13, lines 7, select a path among the paths between the nodes based on the maximum frame size).

Since, a method and system for determining and selecting a path with maximum transport unit size from a plurality of paths are well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for selecting a path with maximum frame size from among paths as disclosed by Aho's method and system into the method and system of Ketcham. The motivation would have been to improve the network bandwidth and communication latency.

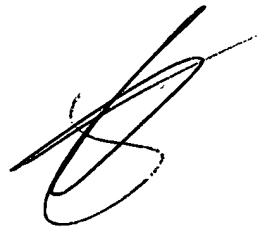
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to be 'S. Nguyen', with a stylized, overlapping loop structure.

Steven HD Nguyen  
Primary Examiner  
Art Unit 2616  
6 September 2006